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September 17, 2020

The Honorable Maryellen Noreika
United States District Court
844 N. King Street
Wilmington, DE 19801

VIA ELECTRONIC FILING

Re: *Biogen Int'l GmbH, et al. v. Amneal Pharms LLC, et al.*,
C.A. No. 17-823-MN (Consolidated)

Dear Judge Noreika:

On behalf of Plaintiffs ("Biogen") in the above consolidated action, we write in response to Defendants' letter and proposed judgment this afternoon (D.I. 404).

Defendants' letter is misleading and misrepresents Biogen's position. Yesterday the Court issued an order (D.I. 403) (the "Order"), directing the parties to submit a proposed form of judgment by Monday September 21. However, Defendants informed Biogen that they intended to unilaterally submit their proposed form of judgment by 5:00 p.m. yesterday. When Biogen stated that it needed time to review and provide comments on the judgment, Defendants gave a new "deadline" of noon today, stating they "disagree that the Court's order requires the parties to reach an agreement on a proposed form of judgment," and threatening to file today "with or without comments from Biogen." Defendants' letter today not only omits those details, but it misleadingly states that "Defendants provided Biogen the opportunity to provide revisions to their proposed judgment . . . which Biogen declined to provide at this time."

In fact, Defendants did not even provide their current proposal for Biogen to review prior to submitting it to the Court. Instead, defendants provided Biogen with an earlier version of this document. Notably, both the earlier version shared with Biogen and the revision submitted to the Court contain numerous errors and do not even properly identify the parties to the consolidated action.

As we explained to Defendants, their draft contains issues that need to be addressed. This document is of considerable consequence to our client, and both the complexity of the litigation and the unusual nature of the judgment will necessitate involvement and approval by Biogen personnel. We are working diligently on this, and we promised to circulate a redline consistent with the Court's order – which we think was clear both as to timing and the expectation that the parties will provide a single proposed document. Your Honor gave the parties a short but manageable amount of time to do this correctly, and Biogen respectfully requests that the Court stand by the terms of the Order and await a joint submission on Monday.

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Respectfully,

/s/ Steven J. Balick

Steven J. Balick (#2114)

SJB/nlm
cc: Counsel of Record (via electronic mail)